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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

RYAN P. MCKEE, an individual,

Plaintiff,

v.

BISHOP, WHITE, MARSHALL &  
WEIBEL, P.S. a Washington  
Corporation

Defendant.

Case No.: CV-11-5075-LRS

COMPLAINT

[FDCPA]

**I. JURISDICTION**

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA") and their agents in their illegal efforts to collect a consumer debt from Plaintiff.

- 1           3.    Venue is proper in this District because the acts and transactions occurred here,  
2           Plaintiffs reside here, and Defendants transact business here.

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4                                   **II. PARTIES**

- 5           4.    Plaintiff Ryan McKee is a natural person who resides in the City of Richland  
6           County of Benton, State of Washington, and is a “consumer” as that term is  
7           defined by 15 U.S.C. § 1692a(3).  
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9           5.    Defendant, Bishop, White, Marshall & Weibel, P.S. (hereinafter “BWMW”) is an  
10          entity who at all relevant times was engaged, by use of the mails and telephone, in  
11          the business of attempting to collect a “debt” from Plaintiff, as defined by 15  
12          U.S.C. §1692a(5).  
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14          6.    Defendant, Bishop, White, Marshall & Weibel, P.S. is a “debt collector” as  
15          defined by 15 U.S.C. § 1692a(6).

16                                   **III. FACTUAL ALLEGATIONS**

- 17          7.    Beginning or around 2005, Plaintiff Ryan McKee incurred a financial obligation  
18          that was primarily for personal, family or household purposes and is therefore a  
19          “debt” as that term is defined by 15 U.S.C. § 1692a(5). Namely, Defendant  
20          BWMW claimed that Mr. McKee owed money to Discover Bank, Issuer of the  
21          Discover Card.  
22  
23          8.    Mr. McKee did not sign a contract with Discover Bank, Issuer of the Discover  
24          Card, or any of Discover Bank’s subsidiaries or parent corporations, in Spokane  
25          County.

1           9. Mr. McKee disputes the amount of the debt that Defendant BMW claims is  
2           owed.

3           10. Mr. McKee also disputes whether the Discover Bank is the real party in interest  
4           with respect to the debt claimed owed by BMW.

5           11. On September 14, 2010, BMW commenced a lawsuit against Mr. McKee in  
6           Spokane County Superior Court to collect the debt allegedly owed to Discover  
7           Bank by serving him at his usual place of abode in Benton County, Washington.

8           12. On September 14, 2010, Mr. McKee did not reside in Spokane County,  
9           Washington.

10          13. On January 28, 2011, BMW filed the lawsuit against the Mr. McKee in  
11          Spokane County (Spokane Superior Court Cause Number 11-2-00434-6).

12          14. At all times between September 14, 2010 and the present, Mr. McKee has resided  
13          in Benton County, Washington and not in Spokane County, Washington.

14          15. As a result of BMW prosecuting its lawsuit against Plaintiff in a distant forum,  
15          Mr. McKee has incurred considerable expenses, including but not limited to  
16          missed work and traveling to Spokane on March 25, 2011 to attend a Summary  
17          Judgment hearing that Defendant noted but failed to call in ready and was stricken  
18          from the docket.

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22                                   **IV. TRIAL BY JURY**

23          16. Plaintiff is entitled to and hereby respectfully demands a trial by jury on all issues  
24          so triable. US Const. amend. 7. Fed.R.Civ.P. 38.  
25

**V. CAUSE OF ACTION**

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT  
15 U.S.C. § 1692 et seq.**

17. Mr. McKee incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
18. The foregoing acts of BMW and their agents constitute a violation of the FDCPA including, but not limited to FDCPA, 15 U.S.C. § 1692i.
19. As a result of each of Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3), from the Defendant herein.

**VI. PRAYER FOR RELIEF**

20. Plaintiffs pray that judgment be entered against Defendant:
- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant and for Plaintiff;
  - for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against each and every Defendant and for each Plaintiff;
  - for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant and for Plaintiff;
  - for such other and further relief as may be just and proper.

1 Respectfully Submitted this 10<sup>th</sup> day of May, 2011  
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4 ***KIRK D. MILLER, P.S.***

5 **/s Kirk Miller**

6 Kirk D. Miller

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